IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTEENTH DAY OF MARCH
TWO THOUSAND AND SEVEN

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE P.SWAROOP REDDY

WRIT APPEAL No.238 OF 2007

Between:

M.Nagendera.

..... PETITIONER

AND

Life Insurance Corporation of India,
Divisional Office, Jevan Prakash,
College Road, Kadapa, rep. by
Senior Divisional Manager,
And others.

....RESPONDENTS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
P.SWAROOP REDDY

WRIT APPEAL No.238 OF 2007

O R D E R
(Per Sri Justice J.Chelameswar)

Aggrieved by an order in W.P.No.24018 of 2006 of the learned single Judge of this Court dated 9th February, 2007, the unsuccessful petitioner therein preferred this Writ Appeal.

The appellant is an employee of the first respondent Corporation. The facts relating to the present writ appeal as stated by the learned single Judge in his order under appeal reads as follows:

> **" It appears, the petitioner was working as a Higher Grade Assistant at Divisional Office of the respondent-Life Insurance Corporation of India at Anantapur. While so, a news item was published in 'Vaartha' daily dated 16-1-2005 stating that there was a misappropriation of Rs.10.00 lakhs in LIC Branch-2, Anantapur by one of its employees. Thereafter, a letter was received from the Branch Manager, LIC of India, Branch-2, Anantapur on 17-1-2005 by the Manager, Sree Ananta Grameena Bank, Anantapur stating that a cheque bearing No.215291, dated 27-11-2004 for Rs.51,700/- issued in the name of A.Subrahmanyam Gupta was misappropriated by impersonation by a person other than Subrahmanyam Gupta and requested to send a detailed report. After a preliminary enquiry, the Manager of the Grameena Bank filed a complaint before II Town Police Station, Anantapur and the same has been registered as Crime No.12/2005 for the offences under Sections 419 and 420 of the Indian Penal Code. On the basis of the said complaint, the 2nd respondent issued a charge sheet dated 14-10-2006 to the petitioner framing two charges. Now, it is the contention of the petitioner that a reading of the said charge sheet and the complaint**

filed against him by the Branch Manager of the Grameena Bank before the police shows that the charges levelled against him are identical. The nature of the allegations levelled against him, both in the criminal case and departmental enquiry are one and the same and he will be put to hardship, if he is forced to disclose his line of defence, in the criminal case, before the Enquiry Officer. Therefore, conducting of disciplinary proceedings on the basis of identical charges during the pendency of criminal case, is arbitrary and illegal."

On an examination of the material available on record, the learned single Judge recorded a finding that the enquiry in the criminal case is in respect of the charges under Sections 419 and 420 IPC, whereas the framing of the charge in the Departmental proceeding is about the misconduct in the employment for dereliction of duty and not maintaining integrity in the course of employment, and therefore, dismissed the writ petition.

It is settled law that there can be simultaneous conduct of the departmental enquiry during the pendency of the criminal case against the same employee, unless the charges are identical and the evidence sought to be examined is the same. As stated above, the nature of the charges are different and we do not see any merit in the writ appeal and the same is dismissed at the admission stage itself. No costs.

JUSTICE J.CHELAMESWAR

JUSTICE P.SWAROOP REDDY

16th MARCH, 2007
PGS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
P.SWAROOP REDDY

WRIT APPEAL No.238 OF 2007
(Per Sri Justice J.Chelameswar)

16th MARCH, 2007